

92-265

EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL

ADVANCED TEL-COM SYSTEMS CORPORATION

955 WATER STREET • P.O. BOX 1128
KERRVILLE, TEXAS 78029-1128
August 5, 1994

210-896-6300

RECEIVED

OCT 2 7 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Lamar Smith
United States Representative
Room 2443
Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Lamar:

I am writing to ask you to contact the FCC and encourage the adoption of rules by it which carries out the intent of Congress expressed in the 1992 Cable Act that all television program distributors would have equal access to cable and broadcast programming.

As you may know, Advanced Tel-Com Systems Corporation, an affiliate of The Kerrville Telephone Company, as a member investor of NRTC is a distributor of DIRECTV™ Direct Broadcast Satellite (DBS) in a number of west central Texas counties, including several in your District. This new service, which is now available, will ultimately offer approximately 150 channels of technically superior audio and video directly to home subscribers through the use of an 18" satellite receiving dish. This superior service will provide an opportunity to rural residents who may never have wired cable to receive quality cable and network programming. It will also offer an alternative to cable subscribers within our area.

However, our ability to compete fairly with large dish (C-Band) distributors, other DBS providers, and cable operators, thus offering subscribers a real choice of providers and the benefits of competition, are being negatively impacted by discriminatory pricing and exclusive programming contracts engaged in by programmers owned or controlled by large cable companies. Specifically, Time Warner and Viacom, the providers of HBO and Showtime, the most widely known premium movie services, have entered into exclusive agreements with USSB, the other existing DBS provider, and have refused to deal with DIRECTV. (None of DIRECTV's programming agreements are exclusive.) This prevents us from providing HBO, Showtime and other "cable channel" services to our subscribers, while USSB, if it chooses, is free to provide any programming which we provide. Our subscribers have access to the USSB programming only through USSB, thus requiring two different program subscriptions, two bills, and no real competition which may produce reduced prices to the rural consumer for such services. Of course, such services are also offered on local cable systems

No. of Copies rec'd 2
List A B C D E

operated by TCI, the nations largest cable MSO, and the lack of access to premium channel programming greatly diminishes our opportunity to compete with large cable operators. A chart presented by NRTC to the FCC showing program access is attached for your review.

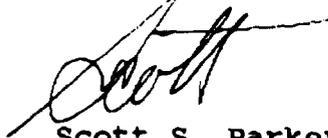
The attached letters to FCC Chairman Reed Hundt from me and from Rep. Billy Touzin and other members of Congress, spell out my concerns on this issue.

If you agree with me that equal non-discriminatory access to programming was the intent of Congress, and that consumers in Texas, especially in rural areas, would be benefitted thereby, I request that you encourage the FCC to correct this inequity.

If you or your staff need further information, please call me at 210-257-9126.

Thank you for your consideration of this matter.

Sincerely,



Scott S. Parker
Senior Vice President/General Counsel

SSP/rrp

Enclosures

PROGRAMMING ACCESS

Access to Programming Controlled by Vertically Integrated Cable Companies

PROGRAMMER	DIRECTV*	USSB*	PrimeStar*	3 LARGEST CABLE DISTRIBUTORS (PBS, SHOWTIME, USA, TBS)*	Cable MSOs (UPSTREAM)*
Cinemax		X	X	X	X
Flix		X	X	X	X
HBO		X	X	X	X
The Movie Channel		X	X	X	X
Showtime		X	X	X	X
Comedy Central		X	X	X	X
MTV		X	X	X	X
VH1		X	X	X	X
Nickelodeon		X	X	X	X
Lifetime		X	X	X	X
American Movie Classics	X	X	X	X	X
BET	X	X	X	X	X
Bravo	X	X	X	X	X
Cartoon Network	X	X	X	X	X
Country Music TV	X	X	X	X	X
CNN/Headline News	X	X	X	X	X
Court TV	X	X	X	X	X
Discovery Channel	X	X	X	X	X
E! Entertainment TV	X	X	X	X	X
Encore	X	X	X	X	X
Family Channel	X	X	X	X	X
Fox Network	X	X	X	X	X
Home Shopping Network	X	X	X	X	X
The Learning Channel	X	X	X	X	X
QVC	X	X	X	X	X
QVC2	X	X	X	X	X
The Nashville Network	X	X	X	X	X
Sci-Fi Channel	X	X	X	X	X
TNT	X	X	X	X	X
Travel Channel	X	X	X	X	X
Turner Classic Movies	X	X	X	X	X
USA Network	X	X	X	X	X
The Weather Channel	X	X	X	X	X

→ CROSS OWNERSHIP INTERESTS WITH

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

607 50 1994

IN REPLY REFER TO:
CN-9404784

Mr. Scott S. Parker
Senior Vice President/General Counsel
Advanced Tel-Com Systems Corporation
955 Water Street
P.O. Box 1128
Kerrville, TX 78629-1128

Dear Mr. Parker:

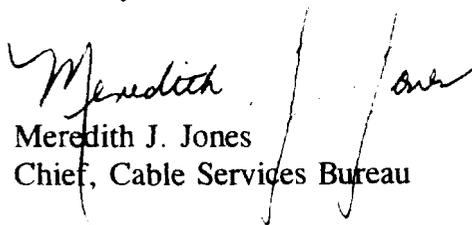
Congressman Lamar Smith has requested the Federal Communications Commission's assistance in responding to your letter regarding exclusivity in the Direct Broadcast Satellite ("DBS") industry. You state your concern that Direct TV, operator of a DBS facility, cannot obtain rights to Time Warner and Viacom programming such as HBO and Showtime, because such programming is subject to exclusive distribution rights of United States Satellite Broadcasting, Inc. I appreciate the opportunity to respond.

As you are aware, the National Rural Telecommunications Cooperative ("NRTC") has requested that the Commission reexamine the legality of exclusive contracts between vertically integrated cable programmers and DBS providers in areas unserved by cable operators. NRTC has asked that the Commission determine that such contracts are prohibited.

NRTC's petition for reconsideration of the Commission's program access rulemaking proceeding is currently pending. As such, any discussion by Commission personnel concerning this issue outside the context of the rulemaking would be inappropriate. However, you may be assured that the Commission will take into account each of the arguments raised by NRTC and the other parties to the rulemaking concerning this issue to arrive at a reasonable decision on reconsideration.

I trust this information is responsive to your inquiry.

Sincerely,


Meredith J. Jones
Chief, Cable Services Bureau

Congressional

My

CONGRESSIONAL CORRESPONDENCE TRACKING SYSTEM

09/13/94

LETTER REPORT

CONTROL NO.	DATE RECEIVED	DATE OF CORRESP	DATE DUE	DATE DUE OLA (857)
9404476	09/13/94	08/29/94	10/03/94	

TITLE	MEMBERS NAME	REPLY FOR SIG OF
Congressman	Steve Buyer	BC

CONSTITUENT'S NAME	SUBJECT
Sm Samuels <i>+ BE HANWAY</i>	Inq. re: 1992 Cable Act

REF TO	REF TO	REF TO	REF TO
CSB			

DATE	DATE	DATE	DATE
09/13/94			

REMARKS:

STEVE BUYER
5TH DISTRICT, INDIANA

WASHINGTON OFFICE:
1419 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1405
(202) 225-5037

DISTRICT OFFICES:
120 EAST MULBERRY STREET
ROOM 106
KOKOMO, IN 46901
(317) 454-7551

204A NORTH MAIN STREET
MONTICELLO, IN 47960
(219) 583-9819



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

August 29, 1994

CSB
CAN/92

4476

COMMITTEE ON ARMED SERVICES
SUBCOMMITTEES:
RESEARCH AND TECHNOLOGY
MILITARY FORCES AND
PERSONNEL

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEES:
HOSPITALS AND HEALTH CARE
HOUSING AND MEMORIAL AFFAIRS

CORN CAUCUS
ALCOHOL FUELS CAUCUS
CONGRESSIONAL AUTOMOTIVE CAUCUS
CONGRESSIONAL SPORTSMEN'S CAUCUS

Ms. Linda Townsend Solheim
Director, Legislative Affairs
Federal Communications Commission
1919 M Street NW Rm 808
Washington, D.C. 20554-0001

Dear Ms. Solheim:

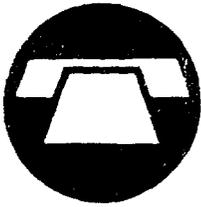
I am contacting you on behalf of my constituents, Mr. S.M. Samuels and Mr. Bruce Hanway, who are concerned about Section 19 of the Cable Television Consumer and Protection Act. Enclosed please find a copy of their letters.

I appreciate your consideration of their comments. If I may be of assistance to you, please do not hesitate to contact me.

Best regards,

Steve Buyer
Member of Congress

SB:ka



THE MONON TELEPHONE CO. INC.

315 N. MARKET ST
P.O. BOX 625
MONON, IN. 47959
219 253-6601

July 22, 1994

RECEIVED

The Honorable Representative Steve Buyer
1419 Longworth House Office Building
Washington, D.C. 20515

JUL 26 1994
AIDE KA
DOC# 165205

Dear Representative Buyer:

I am writing this letter to voice a concern I have regarding the implementation and enforcement of Section 19 of the 1992 Cable Act by the Federal Communications Commission.

As a distributor of Direct Broadcast Satellite television programming, equal access to cable and broadcast programming at fair rate -- something which we are not currently receiving -- is essential for Monon Telephone Company, Inc. to be competitive in our local marketplace.

The attached letters to FCC Chairman Reen Hundt from myself, in addition to Representative Billy Tauzin and other members of Congress, spell out my concerns on this issue.

It was my impression that Congress had guaranteed equal access to cable and broadcast programming for all distributors with the passage of the 1992 Cable Act. Despite this fact, however, satellite distributors and consumers continue to be treated unfairly by the cable industry.

Some programmers continue to charge unfairly high rates for satellite distributors compared with cable rates. Other programmers -- like Time Warner and Viacom -- have simply refused to sell programming to some distributors. These exclusive practices hurt rural consumers and thwart the effective competition required by Section 19 of the Cable Act.

I would greatly appreciate your assistance on behalf of rural consumers in Jasper, White, and Pulaski counties in Indiana in encouraging the FCC to correct this inequity.

Sincerely,

THE MONON TELEPHONE COMPANY, INC.


Bruce T. Hanway
Vice President

SWAYZEE

TELEPHONE BROADBAND, INC.

214 S. Washington Street
Swayzee, IN 46986-0070
PH: (317) 922-7929
1-800-292-3288

S. M. SAMUELS, President

July 27, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Rm. 814
Washington, DC 20554

RE: Cable Competition Report
CS Docket No 94-48

RECEIVED

AUG 02 1994

AIDE
DOC#

KA
106 407

Dear Chairman Hundt:

I am a small Independent Telephone Co., a small CATV Co. and a DBS Co. located in Swayzee, Indiana. I am a member of National Rural Telecommunication Cooperative (NRTC). I agree and support their comments concerning Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992.

One only has to look at the attached Programming Access chart to see that now USSB/ Time Warner/Viacom has an exclusive on the Viacom channels. No one else such as DIRECTV has an exclusive on any programming.

Please enforce the Cable Act of 1992 and deny any exclusive programming no matter how the exclusive is hidden or explained.

Sincerely,



S. M. Samuels
President



SWAYZEE

TELEPHONE BROADBAND, INC.

214 S. Washington Street

Swayzee, IN 46986-0070

PH: (317) 922-7929

1-800-292-3288

S. M. SAMUELS, President

cc:

The Honorable Representative Steve Buyer

The Honorable Sen. J. Richard Lugar

William F. Caton, Secretary

The Honorable James H. Quello

The Honorable Andrew C. Barrett

The Honorable Susan Ness

The Honorable Rachelle B. Chong



PROGRAMMING ACCESS

Access to Programming Controlled by Vertically Integrated Cable Companies

PROGRAMMER	DIRECTV*	USSB*	PrimeStar*	3 LARGEST C-BAND DISTRIBUTORS (NO. SYSTEMS, % OF TOTAL)	Cable MSOs (PERCENTAGE)
Cinemax		X	X	X	X
Flix		X	X	X	X
HBO		X	X	X	X
The Movie Channel		X	X	X	X
Showtime		X	X	X	X
Comedy Central		X	X	X	X
MTV		X	X	X	X
VH1		X	X	X	X
Nickelodeon		X	X	X	X
Lifetime		X	X	X	X
American Movie Classics	X	X	X	X	X
BET	X	X	X	X	X
Bravo	X	X	X	X	X
Cartoon Network	X	X	X	X	X
Country Music TV	X	X	X	X	X
CNN/Headline News	X	X	X	X	X
Court TV	X	X	X	X	X
Discovery Channel	X	X	X	X	X
E! Entertainment TV	X	X	X	X	X
Encore	X	X	X	X	X
Family Channel	X	X	X	X	X
Fox Network	X	X	X	X	X
Home Shopping Network	X	X	X	X	X
The Learning Channel	X	X	X	X	X
QVC	X	X	X	X	X
QVC2	X	X	X	X	X
The Nashville Network	X	X	X	X	X
Sci-Fi Channel	X	X	X	X	X
TNT	X	X	X	X	X
Travel Channel	X	X	X	X	X
Turner Classic Movies	X	X	X	X	X
USA Network	X	X	X	X	X
The Weather Channel	X	X	X	X	X

*** CROSS OWNERSHIP INTERESTS WITH
USSB/TIME WARNER/VIACOM**

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

OCT 20 1994

IN REPLY REFER TO:
CN 9404476

The Honorable Steve Buyer
U.S. House of Representatives
1419 Longworth House Office Building
Washington, DC 20510-1405

Dear Representative Buyer:

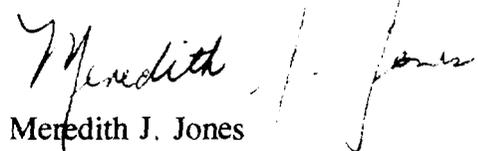
The Chairman has asked me to respond to your inquiry on behalf of your constituents, Mr. S. M. Samuels, President of Swayzee Telephone Broadband, Inc., and Mr. Bruce Hanway, Vice President of the Monon Telephone Company, Inc. Mr. Samuels and Mr. Hanway are concerned that DirecTV, an operator of a direct broadcast satellite ("DBS") facility, cannot obtain rights to Time Warner and Viacom programming, because such programming is subject to exclusive distribution rights of another DBS distributor, United States Satellite Broadcasting, Inc.

Mr. Samuels and Mr. Hanway also express their support for the position of the National Rural Telecommunications Cooperative ("NRTC") concerning the Federal Communications Commission's interpretation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992. NRTC has requested that the Commission reexamine the legality of exclusive contracts between vertically integrated cable programmers and DBS providers in areas unserved by cable operators. NRTC has asked that the Commission determine that such contracts are prohibited.

NRTC's petition for reconsideration of the Commission's program access rulemaking proceeding is currently pending. As a result, any discussion by Commission personnel concerning this issue outside the context of the rulemaking would be inappropriate. However, you may be assured that the Commission will take into account each of the arguments raised by NRTC and the other parties to the rulemaking concerning this issue to arrive at a reasoned decision on reconsideration.

I trust this information is responsive to your inquiry.

Sincerely,



Meredith J. Jones
Chief, Cable Services Bureau